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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

RYAN DALEY, a single person,

Plaintiff,

v.

WILLIAMS & FUDGE, INC., a South
Carolina corporation; and DAVID DOE
and JANE DOE, individually and the
marital community,

Defendants.

Case No.: CV-13-155-TOR

COMPLAINT

(JURY DEMANDED)

Plaintiff Ryan Daley, through his attorney, Kirk D. Miller of *Kirk D. Miller, P.S.* alleges the following:

I. COMPLAINT

1.1. This is an action for damages and remedies against Williams & Fudge, Inc. (hereinafter “Williams & Fudge”) pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq.

II. JURISDICTION & VENUE

- 2.1. Jurisdiction of this Court arises under 15 U.S.C. §1692k (d), 28 U.S.C. §1337, and 28 U.S.C. §1331. Supplemental jurisdiction exists for state law claims pursuant to 28 U.S.C. §1367. Declaratory relief is available pursuant to 28 U.S.C. §2201 and §2202.
- 2.2. Venue is proper in this District under 28 U.S.C. §1391(b) because the Defendant conducts affairs and transacts business in this District, the unlawful acts giving rise to this Complaint occurred in this District, and the Plaintiff resides within the territorial jurisdiction of the court.

III. PARTIES

- 3.1. Plaintiff Ryan Daley is a resident of the state of Washington, residing within the territorial jurisdiction area of the United States District Court for the Eastern District of Washington.
- 3.2. Plaintiff Ryan Daley is a natural person.
- 3.3. The Defendant alleged that Ryan Daley was obligated to pay a debt.
- 3.4. Plaintiff Ryan Daley is a “consumer” as defined by the FDCPA 15 U.S.C. § 1692a(3).
- 3.5. The alleged debt was an obligation of Plaintiff to pay money arising out of a transaction primarily for personal, family, or household purposes.

1 3.6. Defendant Williams & Fudge is a collection agency that is licensed to
2 conduct business in the state of Washington.

3 3.7. Defendant Williams & Fudge attempted to collect a “debt” as defined
4 by FDCPA 15 U.S.C. §1692a(5).

5 3.8. Defendant Williams & Fudge regularly uses the telephone in its
6 attempts to collect debts.

7 3.9. Defendant Williams & Fudge uses instrumentalities of interstate
8 commerce or the mails in its business.

9 3.10. Defendant Williams & Fudge uses the mail in its attempts to collect
10 debts.

11 3.11. Defendant Williams & Fudge is a South Carolina corporation engaged
12 in the business of collecting debts that are originally owed to another.

13 3.12. Defendant Williams & Fudge regularly collects or attempts to collect,
14 directly or indirectly, debts owed or due or asserted to be owed or due
15 another.

16 3.13. Defendant Williams & Fudge is a “debt collector” as defined by the
17 FDCPA 15 U.S.C. §1692a(6).

18 3.14. Defendant David Doe’s last name will be identified through
19 discovery.

1 3.15. Defendant David Doe is the employee of Defendant Williams &
2 Fudge that called Plaintiff's friend's place of employment on April 8,
3 2013.

4 3.16. Defendant David Doe uses instrumentality of interstate commerce,
5 including the telephone or the mails, in the course and scope of his
6 employment at Defendant Williams & Fudge, in his attempts to
7 collect debts.
8

9 3.17. Defendant David Doe is a "debt collector" as defined by the FDCPA
10 15 U.S.C. § 1692a(6).
11

12 3.18. All acts and omissions by David Doe were performed on behalf of his
13 employer, Williams & Fudge.
14

15 3.19. All acts alleged of David Doe were done on his own behalf, on behalf
16 of Defendant Williams & Fudge, and on behalf of David Doe and the
17 marital community.
18

19 3.20. Defendant Williams & Fudge is jointly and severably liable for the
20 acts and omissions of its agents, Defendant David Doe, through the
21 doctrine of respondent superior.
22

23 IV. FACTS

24 4.1. Williams & Fudge alleged that sometime prior to April 8, 2013,
25 Plaintiff incurred a debt.

1 4.2. The alleged debt is an obligation incurred primarily for personal,
2 family or household purposes.

3 4.3. On April 8, 2013, David Doe called Plaintiff's roommate's place of
4 employment.

5 4.4. On April 8, 2013, David Doe spoke on the telephone with a third
6 party who is a friend of Plaintiff and who is not the Plaintiff.

7 4.5. The third party with whom David Doe spoke on April 8, 2013 is not
8 the Plaintiff's spouse, guardian, executor, administrator, attorney, or a
9 consumer reporting agency.
10

11 4.6. The third party with whom David Doe spoke on April 8, 2013 is not
12 the creditor, attorney of creditor, or attorney of the debt collector.
13

14 4.7. Plaintiff never authorized David Doe or Williams & Fudge to
15 communicate with any third party for the purpose of collecting a debt.
16

17 4.8. On April 8, 2013, David Doe specifically asked for the Plaintiff's
18 roommate by name.
19

20 4.9. David Doe knew that the third party was not the Plaintiff.

21 4.10. David Doe's April 8, 2013, call to Plaintiff's friend's place of
22 employment was an attempt to collect a debt.
23

1 4.11. David Doe's April 8, 2013, call to Plaintiff's friend's place of
2 employment was a "communication" as defined by 15 USC
3 §1692a(2).
4

5 4.12. David Doe's April 8, 2013 call to Plaintiff's roommate's place of
6 employment was not an attempt to obtain location information.
7

8 4.13. David Doe did not state at any time during his April 8, 2013, call to
9 Plaintiff's friend's place of employment that he was confirming or
10 correcting location information concerning the Plaintiff.
11

12 4.14. David Doe disclosed to the third party that he was calling on behalf of
13 defendant Williams & Fudge.
14

15 4.15. David Doe's disclosure to a third party that he works for Williams &
16 Fudge and was trying to reach the Plaintiff is an indirect disclosure to
17 a third party that the Plaintiff owes a debt.
18

19 4.16. Williams & Fudge is a nationally known debt collector.
20

21 4.17. The plaintiff's roommate with whom David Doe spoke on April 8,
22 2013, knew on April 8, 2013 that Williams & Fudge is a debt
23 collector.
24

25 4.18. David Doe requested that the third party relay a message to the
Plaintiff to call him back.

1 4.19. David Doe provided the third party with a phone number for
2 Defendant Williams & Fudge.

3 4.20. The third party with whom David Doe spoke on April 8, 2013,
4 advised Plaintiff that David at Williams & Fudge requested a return
5 phone call from Plaintiff.
6

7 4.21. The third party with whom David Doe spoke on April 8, 2013,
8 informed Plaintiff that Williams & Fudge is a debt collector.
9

10 4.22. Plaintiff suffered negative emotions as a result of David Doe
11 disclosing to a third party that he works for a known debt collection
12 company.
13

14 4.23. As a result of David Doe's April 8, 2013 communication, Plaintiff
15 suffered negative emotions including anxiety, embarrassment and
16 anger.
17

18 V. VIOLATION OF THE FAIR DEBT
19 COLLECTION PRACTICES ACT

20 5.1. Williams & Fudge communicated with a third party in connection
21 with the collection of an alleged debt and in violation of 15 USC §
22 1692c(b).
23

24 5.2. The debt collector, Defendant Williams & Fudge, through its own
25 acts, by and through its agent and employee, and through its policies

1 and procedures, has violated the FDCPA which has caused damage to
2 Plaintiff.

3 VI. DEMAND

4 WHEREFORE, Plaintiff demands judgment as follows:

5
6 6.1. Actual damages;

7 6.2. Statutory damages pursuant to the FDCPA, 15 U.S.C. § 1692k(a)(1).

8 6.3. Statutory damages against each of the Defendants in the amount of
9 two thousand dollars (\$2000.00), pursuant to the FDCPA 15 U.S.C. §
10 1692k(a)(2)(A).

11
12 6.4. Costs and reasonable attorney's fees pursuant to the FDCPA, 15
13 U.S.C. §1692k(a)(3);

14
15 6.5. For such other and further relief as may be just and proper.

16 DATED this 23rd day of April, 2013.

17
18
19 *Kirk D. Miller, P.S.*

20
21 /s Kirk D. Miller

22 Kirk D. Miller
23 WSBA #40025
24 Attorney for Plaintiff
25